

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
 MUR 6018) CASE CLOSURE UNDER THE
 FRIENDS TO ELECT GEORGE E.) ENFORCEMENT PRIORITY SYSTEM
 MITCHELL FOR CONGRESS, AND)
 ROSALIND MITCHELL,)
 AS TREASURER)

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are

forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

The Office of General Counsel scored MUR 6018 as a low-rated matter. In this case, the Complainant, Elaine Sawyer, alleges that Friends to Elect George E. Mitchell for Congress Committee ("Committee") and Rosalind Mitchell, as treasurer, violated various reporting provisions of the Federal Election Campaign Act of 1971, as amended. Specifically, complainant alleges that the Committee's disclosure reports are inaccurate, because they show disbursements to the candidate's former employer, Sawyer & Associates Real Estate, Inc., ("Sawyer Real Estate") for the rental of office space. The complainant alleges that Sawyer Real Estate did not receive any funds from the Committee. Rather, Sawyer Real Estate received \$1,000 per month from the candidate for administrative fees pursuant to a Broker-Agent Independent Contractor Agreement.

1 In response to the complaint the candidate states that he was never an employee for
2 Sawyer Real Estate. Instead, the candidate claims that he paid \$1,000 per month for the use
3 of office space at Sawyer Real Estate.¹ According to the complainant, the \$1,000 per month
4 that was paid by him, on behalf of his Committee, to Sawyer Real Estate was with the
5 understanding that his Committee would conduct activities at the office. Moreover, the
6 candidate claims that the motive behind the complainant's complaint could be to avoid
7 having the rent payments documented, since the complainant is under an Internal Revenue
8 Service investigation and is involved in a law suit with her former business partner.

9 The expenses associated with the alleged reporting violations appear to be de
10 minimis. Thus, in furtherance of the Commission's priorities and resources, relative to other
11 matters pending on the Enforcement docket, the Office of General Counsel believes that the
12 Commission should exercise its prosecutorial discretion and dismiss the matter. *See Heckler*
13 *v. Chaney*, 470 U.S. 821 (1985).

14 **RECOMMENDATION**

15 The Office of General Counsel recommends that the Commission dismiss
16 MUR 6018, close the file, and approve the appropriate letters.

¹ The parties are in dispute over the exact amount that was paid by the candidate for either rent or administrative expenses, since it appears that the candidate offset some of the monthly expenses from an earned commission that allegedly was not credited by Sawyer Real Estate. The candidate states that he is involved in a civil lawsuit with Sawyer Real Estate over the real estate commission.

10/28/08
Date

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Attachment:
Narrative in MUR 6018